Brother drops Oswald widow from suit against exhumation

By EARL GOLZ

Robert Oswald's lawyers Thursday removed Marina Oswald Porter as a defendant in their lawsuit opposing the exhumation of the body in Lee Harvey Oswald's grave, freeing her from possible payment of $100,000 in damages.

State Dist. Judge James E. Wright of Fort Worth signed the order dismissing Oswald's widow as a defendant and canceled a hearing Friday for a temporary injunction that would have further blocked the exhumation.

Wright rescheduled the hearing for Sept. 5, keeping the temporary restraining order in effect.

Attorneys for Michael Eddowes, the British author seeking the exhumation, said Mrs. Porter, of Rockwall, posed a conflict of interest for the law firm used by Robert Oswald because it also represented Oswald's widow in 1964.

Robert Oswald is Lee Harvey Oswald's brother.

William A. McKenzie, a partner in the Dallas law firm of McKenzie & Baer, represented Oswald's widow during 1964 testimony before the Warren Commission. She testified she paid McKenzie $15,000 for his services. McKenzie also represented Robert Oswald during his Warren Commission testimony.

Wright scheduled for Sept. 3 a hearing on Dallas County chief medical examiner Dr. Charles Petty's motion to transfer the hearing on his involvement as a defendant from Fort Worth to a state district court in Dallas County.

Named originally as defendants in

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Oswald's widow has no authority to permit exhumation, lawyers say

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addition to Petty and Mrs. Porter were Eddowes and Rose Hill Burial Park in Fort Worth, where the body was buried in 1963. All were cited as liable to $100,000 damages each if the body is exhumed.

Mrs. Porter, who has been subpoened to testify at the exhumation hearing, will be called Sept. 5, said Craig M. Fowler, one of Robert Oswald's attorneys.

Her signature on a form consenting to exhumation and a second autopsy was heralded by Eddowes as the key to breaking a legal logjam. Wright last year dismissed Eddowes' civil suit for exhumation because the Englishman had no standing in a U.S. court.

Robert Oswald's attorneys said they view Mrs. Porter's consent as insignificant toward exhuming the body from its reinforced vault.

"She has no authority to consent to an exhumation," Fowler said. "We have determined that the real party seeking relief here is Mr. Eddowes and all Marina had done was give her consent to autopsy, and I don't think that's going to be enough to get the exhumation . . .

"As I read the statutes, only a medical examiner can order a disinterment, or a district attorney. She can consent to an autopsy but that's not going to get the body out of the grave."

Fowler said Mrs. Porter's testimony is expected to benefit Robert Oswald's case against exhumation because "she is very satisfied that that's her former husband" buried at Rose Hill.

Mrs. Porter has said she believes her husband was 5 feet 11 and had a mastoidectomy scar behind one of his ears, both in conflict with Eddowes' contentions. She said she consented to the exhumation and autopsy to settle the matter.

Eddowes says the man who came to the United States from the Soviet Union in 1962 as Marina's husband was not Lee Harvey Oswald but a Soviet secret agent posing as Oswald. He contends the agent was a "sleeper" agent trained to react with violence in a time of crisis between the United States and the Soviet Union.

The Warren Commission in 1964 concluded that Oswald defected in 1959 to Russia and returned to the United States the year before he assassinated President John F. Kennedy in 1963.

Although the Warren Commission found Oswald acted alone in shooting Kennedy, the House Assassinations Committee in 1979 said the assassination probably resulted from a conspiracy with at least one other person firing a shot in Dealey Plaza.

Eddowes says the real Oswald was 5 feet 9 and had a mastoidectomy scar behind his left ear. When Dr. Earl Rose, Dallas County medical examiner in 1963, performed an autopsy on the body of the accused assassin, he measured him as 5 feet 11 and did not note a mastoidectomy scar.

Oswald was shot to death by Dallas nightclub operator Jack Ruby two days after the Kennedy assassination.

Robert Oswald's attorneys got a temporary restraining order the day before a secret private exhumation was to have occurred last Friday. Petty was to have performed the autopsy after the exhumation but not in his capacity as medical examiner.

Eddowes, who had agreed to pay the estimated $8,000 cost of the exhumation and autopsy, has been accused by Robert Oswald of staging it as a publicity stunt to sell more copies of a book he wrote on the subject in 1977.